Jurisdictional Statement

81-1752

Supreme Court, U.S.
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ALEXANDER L. STEVAS
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES
October Term, 1981
NO. _____

H.GORDON HOWARD,
APPELLANT,
Pro Se,

V.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, COLORRADO; AND THE POUDRE VALLEY RURAL ELECTRIC ASSOCIATION; Inc.; AND THE NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY,
APPELLEES.

On Appeal from the Supreme Court of Colorado

JURISDICTIONAL STATEMENT

H. Gordon Howard,
Appellant, Pro Se,
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QUESTIONS PRESENTED FOR REVIEW:

1. Where the Supreme Court of Colorado decided that conspirators could take away from the appellant herein his Constitutional right pursuant to the provisions of the 14th Amendment to the Federal Constitution to sue and defend, and litigate, as a United States Citizen, pro se, or in propia persona, without appearing in court through an attorney, is such a decision not only violative of the Fourteenth Amendment Constitutional Rights of the appellant herein, but also a deprival of Appellant's federally protected Civil Rights under the following Federal Civil Rights statutes?, to wit:

(1) 28 U.S.C.A., Section 1343, and
(2) 42 U.S.C.A., Section 1983, and
(3) 42 U.S.C.A., Section 1985

2. Contrary to the decision of the Supreme Court of Colorado in Original Proceeding No. 81 SA 261, is not a denial of reasonable access to the State Courts a conflict with, and a deprival of, the Civil Rights of the appellant herein who has a right to appear and represent himself

pro se, or in propia persona, without hiring legal counsel, in any court, either State or Federal, as shown by the following Federal Cases?, to wit:

(1) Harris Vs. Pate (CCA of Illinois) 440 Federal 2nd 315; and

(2) Black Vs. Brown (CA Illinois) 513 Federal 2nd 652; and

(3) U.S. Vs. Hoerner (D.C. Mont.) 157 Fed. Supp. 563; and

(4) Britt Vs. Suckle, (D.C.Tex. 1978), 453 Fed.Supp. 987.

3. May not the appellant herein appear in any court, State or Federal, either without counsel, ~~or~~ pro se, or in propia persona, contrary to the aforementioned decision of the Colorado State Supreme Court decided on January 25, 1982, as shown by the following cases?, to wit:

(1) U.S.-Boez Vs. Husdon Motor Car Co., 19 Fed. Supp. 385; and

(2) Chapman Vs. Goodman, (C.A.Calif.), 219 Fed. 2nd 802; and

(3) Philbrook Vs. San Francisco Suprerior Court, 43 Pac. 402, 111 Calif. 31, and Leonard Vs. Toledo St. L. and W.R. Co., (D.C. Oregon) 232 Federal 281

4. Does not the Supreme Court of Colorado act illegally, unlawfully,and unconstitutionally when it renders a decision overruling and holding for naught Colorado Constitution, Article II, Section 6, guaranteeing to every person the right of access to the State Courts of Justice, since a State Constitution is the Supreme Law of the People of the State; and is a charter creating government, and guaranteeing citizens their rights and liberties, subject only to the restrictions imposed by the provisions of the Federal Constitution?, as decided by the case of Vanhorne's Lessee Vs. Dorance, 2 U.S. 304 , 1 L. Ed. 391. And if, the Supreme Court of Colorado sidestepped and refused to enforce Colorado Constitutional Article II, Section 6, according to its own whims of expediency, was this not a conflict with and a violation of Appellant Howard's rights guaranteed to him by the Fourteenth Amendement to the U.S.Constitution ?

NOTE ABOUT PARTIES IN THIS PROCEEDING IN THIS COURT WHOSE JUDGMENT OF THE SUPREME COURT OF COLORADO IS SOUGHT TO BE REVIEWED AND REVERSED:

THE caption of this case in this Court contains the names of all the parties who seem by the appellant to be essential to the presention of the questions of appeal herein, who were parties to the judgment of the Colorado Supreme Court. Although the attorneys for the petitioners in the original proceeding in the Supreme Court of Colorado in case No. 81 SA 261, were included in appellant's answer and cross-complaint in the said State Court Below, because their conspiring with their clients to interfere with, and deny, the appellant herein, as a United States Citizen of the free enjoyment of his Civil Rights, guaranteed to the appellant herein by the 14th Amendment to the U.S.Constitution to appear in court in his own behalf, either pro se, or in propia persona, was an indictable felony pursuant to Title 18 U.S.C.A., Section 241. The appellant herein does not feel that the adding of

Thomas O. David, and Randolph W. Starr, and D. Chet Mast, the attorneys for the said conspirators, is absolutely essential to the determination of the issues for the reversal of the judgment of the Supreme Court of Colorado, which said judgment is now on appeal before this Honorable Court herein.

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No._____

H. GORDON HOWARD,

APPELLANT, PRO SE,

VS.

The Board of County Commissioners of the County of Weld, State of Colorado; and the Poudre Valley R.E.A., Inc.; and The National Farmers Union Property and Casualty Company,

APPELLEES.

On appeal from the Supreme Court of Colorado

THE Appellant herein respectfully requests that this Honorable Court herein will review the judgment of the Colorado Supreme Court, dated January 25, 1982, in Original Proceeding No. 81 SA 261, and will reverse the same as being in derogation of an conflict with appellants Constitutional Rights and privileges as guaranteed by the 14th Amendment to the U.S.Constitution, and the United States Civil Rights Acts.

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Title 18 U.S.C.A. Section 241, entigled Conspiracies to Deprive a Citizen of any of his Civil Rights, which statute reads as follows:

"It is a punishable felonious offense for two, or more, persons to conspire to injure, threaten, or intimidate any citizen in the free exercise, or enjoyment, of any rights, or privileges, secured to him by the United States, or because of having exercised the same, and the said statute has been held to be constitutional and valid, citing note 63, 15 C.J.S., Conspiracy, Section 57, page 1092, citing the following cases, to wit:

(1) U.S. vs. Mosley (Okl.), 35 Sup. Ct. 904, 238 U.S. 383, 59 L.Ed. 1355; and

(2)Felix Vs. The United States, (La.) 186 Federal 685, 689, 108 C.C.A. 503, and

(3) U.S. Vs. Wadell, (Ark.), 6 Sup.Ct. 35, 112 U.S. 76, 28 L.Ed. 673,and

(4) U.S.Vs. Stone (D.C. Maryland), 188 Federal 836.

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CONSTITUTIONAL PROVISIONS INVOLVED:

The Fourteenth Amendment to the United States Constitution provides in part: "Nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Access,, or denial of access to the Courts, is the denial, or acceptance and recognition of one of the primary rights, called Civil Rights, guaranteed to a citizen like the appellant herein by the 14th Amendment to the United States Constitution. Denial of access to the courts by a citizen like appellant herein, on his own behalf, pro se, or in propia persona, is a felony under Title 18 U.S.C.A.,Section 241; and the right of access to the courts in propia persona is one of the strongest civil rights protected by the 14th Amendment to the U.S.Constitution, and the statutory CivilRights Acts of the United States. See the case of Buchanan Vs. The United States (Colo.), 233 Federal 257, 147 C.C.A. 263.

OPINIONS BELOW:

The Opinion and judgment of the Supreme Court of Colorado in Original Proceeding by petition No. 81 SA 261 was filed on January 25, 1982, and is set forth in Appendix A-1 infra on pages 19 through 26, infra.

JURISDICTIONAL STATEMENT

The jurisdiction of this Honorable Court herein is invoked pursuant to the 14th Amendment to the U.S. Constitution which reads in part: "Nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." The judgment of the Colorado Supreme Court was entered on Jan. 25, 1982. The notice of appeal was filed with the Clerk of the Supreme Court of Colorado on January 30, 1982 by first class mailing in a properly sealed, stamped and addressed envelope, with the return address of the appellant herein thereon.

STATUTORY PROVISIONS BELIEVED TO CONFER JURISDICTION OF THE APPEAL ON THIS COURT:

The statutory provisions believed to confer jurisdiction of the appeal herein on this Honorable Court are as follows:

1. Title 28 U.S.C.A., Section 1343, involving conspiracies to deprive the appellant of his right to appear in court pro se, or in propia persona--one of the strongest Civil Rights available to Citizens.

2. Title 42 U.S.C.A.,Section 1983, involving conspiracies to deny appellant his Civil Rights to appear in court pro se.

3. Title 42 U.S.C.A.,Section 1985, involving conspiracies to deprive the appellant herein of his Civil Rights to appear in court in propia persona, or pro se, as a denial of equal protection of the law, constituting invidious and class based discrimination animus behind the conspirators actions.

4. Title 18, Section 241 of U.S.C.A. involving criminal protection of citizens from threats, and intimidation, and interference with their Civil Rights, such as was practiced by the appellees herein.

STATEMENT OF THE CASE:

THE appellant, H.Gordon Howard, is

a citizen of the Unied States and a resident of Colorado. On about June 18th 1981, the appellees herein filed an original proceeding by way of a petition in The Supreme Court of Colorado in case No. 81 SA 261, asking the said court to deprive the appellant of his right and privilege to sue or defendant, or litigate,in Colorado courts in pro se, or in propia persona, without hiring a Colorado lawyer to represent the appellant in court. Offhand it appeared to the appellant herein that the petitioners below, who are appellees herein, were accusing the appellant of practicing law without a license. But, Subsequently in a reply to the answer of respondent Howard below, the said petitioners denied that they'd charged this appellant herein with practicing law without a license, explaining that that what they wanted the court to do was to enjoin Mr. Howard from appearing before any court or administrative ageney of Colorado either in a pro se, or an in propia persona capacity, as his own attorney. In other words, the appellees herein asked that appellant's Civil Right to handle his own cases in courts of Colorado be enjoined and taken from him.

The appellant herein waited almost eight months for the State court to set a date for a hearing, with notice of the hearing, and an opportunity to be heard on the merits of the matter.

However, on January 25, 1982 the Supreme Court of Colorado made generalized false,and erroneous, and untrue findings of fact, and conclusions of law without ever allowing the appellant to have his day in court to argue the facts or the law, through notice and opportunity to be heard. This procedure rendered the judgment and findings of the said court procedurally defective and unconstitutional, because in its procedural aspect the constitutional guarantee of due process of law assures to every person his day in court, and means that there can be no proceeding against life, liberty, or property without observance of those general rules established in our system of jurisprudence for the security of private rights, citing the case of

Truax V. Corrigan, 42 S.Ct. 124,257 U.S. 312, 66 L.Ed. 254, 27 A.L. R. 375, reversing 176 P. 570, 20 Ariz. 7. The essential elements of procedural due process of law are notice,and an opportunity to be heard or defend, citing: Ownbey Vs. Morgan, 41 Sup. Ct. 433, 256 U.S. 94, 65 L.Ed. 837 Postal Telegraph Cable Co. Vs. City of Newport, 38 Sup. Ct. 566, 247 U.S.464, 62 L.Ed. 1215. The due process of law clause of the 14th Amendment to the U.S.Constitution has the purpose of securing to all citizens equal and impartial justice, and due process of law includes equal protection of the laws without discrimination, by laws that operate on all persons alike, citing:

(1) U.S.Vs. Yount, (D.C. Pa.) 267 Federal 861, and

(2) Truax Vs. Corrigan, 42 Sup. Ct. 124, 257 U.S. 312, 66 L.Ed. 254, 27 A.L.R. 375, and

(3) Southern Bell Telephone & Telegraph Co. Vs. Town of Calhoun, (D.C. So. Car.), 287 Federal 381.

The due process of law clause

is the guardian, guarantor, and protector of appellant Howard's Civil Rights under the following federal Civil Rights Statutes, namely:

(1) 28 U.S.C.A.,Section 1343, involving conspiracies to deprive appellant of his civil rights to appear in courts pro se, without counsel, and sue and defend in propia persona.

(2) 42 U.S.C.A., Section 1983, involving like conspiracies as conspiracies like the appellees herein have committed to deprive this appellant of his civil rights to litigate in court, either as plaintiff, or defendant, pro se, or in propia persona, pursuant to 28 U.S.C.A. Section 1343, supra.

(3) 42 U.S.C.A. ,Section 1985 involving conspiracies committed by appellees herein with conduct and motivation that is invidious and class based and is concocted and conjured up to deprive the appellant Howard herein of equal protection of his civil rights under the laws and constitution of the United States, or of his equal privileges and immunities as a member of the class of citizen litigants who in both the federal, and State courts can litigate pro se, or in propia persona.

(4) Title 28 U.S.C.A., Section 241, which makes it a felonious federal offense, where two, or more, persons like appelles herein conspire to injure, threaten, or intimidate any citizen, like appellant herein, in the free exercise or enjoyment of any right or privilege , secured to him by the Constitution of the U.S., or laws of the U.S., or because of having exercised the same. Needless to say, the appellees herein have for years harrased and threated the appellant with bankruptcy, the taking of his Pine Lake Mobile Home Resort and Campground from him, and harm to the appellant, if the appellant did not dismiss his federal court cases filed against them to protect his personal and property rights. They would not put their threats in writing, but made their intimidating and harrassing and threatening gestures and actions orally, so that appellant herein would have no written evidence to take to court in his defense of himself and his property. The appellees have also on many occasions committed slanders against

appellant. One reason for the filing of their special proceeding before the Supreme Court of Colorado was because appellant has an open and shut case against the Poudre Valley R.E.A., Inc. in the State District Court of Colorado in Larimer County in Civil Action No. 81 CV 194 for a terrible slander committed by the said Poudre Valley R.E.A., Inc, an appellee herein, through its officer and agent, one Duane Richie, and the action, or special proceeding filed in the Supreme Court of Colorado was to get appellant Howard off their backs and out of court by any means whatsoever, whether legal or not, or constitutional or not. At another time and occasion about three years ago the County of Weld counterclaimed for one-half million dollars against the appellant herein in the court of the Honorable Judge Sherman Finesilver , one of the senior judges of the U.S.District Court for Colorado. The counterclaim was made in a law case between the appellant herein and the County of Weld,Colorado, based on the ground of asking for attorney's fees and court costs.

Judge Sherman Finesiler dismissed the said counterclaim with prejudice, and as having no merit. Then the Board of County Commissioners of Weld County, Colorado went into the Denver,Colorado District State Courts trying to litigate the same matter for $500,000.00 court costs and attorney's fees against the appellant herein , which was an action filed in bad faith, fraudulently, and without any merit whatsoever, because Judge Finsilver's opinion and decision was final, and Res Judicata. Appellant procured a change of venue to the Arapahoe County,Colorado district court, which is the county of his residence, and District Judge Marvin Foote on motion by appellant to dismiss the suit dismised the action on the basis of res judicata in the U.S.District Court of Colorado, and then wrote in his opinion remarks that were so critical and abusive of the conduct and actions of the Board of County Commissioners of Weld County Colorado that a sinner in his pronoucement by God at the final judgment would have wilted at the findings and conclusions of the said Judge Marvin Foote, one of the most excellent and capable judges that ever presided over a State high court for trials of cases.

The Supreme Court of Colorado in its findings of January 25, 1982 concluded that appellant herein never hires a lawyer to represent himself in court,but handles ever case pro se. This is a fa lsehood, because this appellant has hired many capable and good lawyers of Colorado when the going got rough. Appellant hired Michael V. Makaroff, a prominent Denver criminal lawyer to defend the appellant against a fake and sham criminal case , where five witnesses, three of wich were deputy sheriffs committed perjury on the witness stand in Weld Couny,Colorado in order to try to get a conviction . The trial cost the appellant herein $6,000 in attorney's fees, and another approximate $1,000 in court costs, but the case was easily won before a jury of twelve men and women. This fake and sham case was in appellant's belief brought about by the County of Weld, an appellee herein. The appellant herein has also hired Thomas A. Richardson, a prominent and former Weld County County attorney of Weld County,

Colorado, who won every civil case for appellant entrusted to said attorney.

Appellant herein also hired Robert Holland, whose father was chief justice on the Supreme court of Colorado for several years. Holland won every civil case that appellant herein entrusted to him. Unfortunately Bob Holland died a few years ago, 2 or three, of emphysema from smoking too much.

The Supreme Court of Colorado made findings and conclusions that appellant herein filed numerous meritless and worthless cases. This claim is without foundation, and is fraudulent in law and in fact, because in around 30 years of law practice , and another 10 years around the courts, this appellant never lost a law case to either a court, or a jury. A few cases were settled or compromised favorably to the appellant since most Colorado lawyers have been reluctant to fight the appellant on trials, and on appeals, knowing that appellant has a history of winning his suits. Most of the suits filed by appellant in court have

been concerned with forcible or unlawful detainer cases, or contract matters pertaining to rental properties, since appellant manages and supervises around seventy six rental units, and when a tenant refuses, or declines, to pay his rent for his unit, he has to be evicted, or be sued for the rental payment due and unpaid; and such suits cannot be considered to be without merit. Appellant did file a few civil suits as trustee for a trust that he set up for his wife and child as beneficiaries several years ago. These trusts were revoked under a power of revocation reserved in the trusts, when the Supreme Court of Colorado, going against all reported cases, which allow a trustee to file a suit in his own name without joining the beneficiaries of the trust, revoked the said trusts several years ago by filing an instrument of revocation with the Clerk and Recorder's office of Weld County,Colorado. Appellant herein successfully handled all the trust suits that he filed, and they were all considered by the judges where filed to be meritorious suits.

The Supreme Court of Colorado in its findings and conclusions of Jan. 25, 1982 gave appellant herein no notice of any hearing , or opportunity to be heard, and merely acted arbitrarily, capriciously and unlawfully, and unconstitutionally to deprive the appellant of his Civil Rights to appear in courts of the State of Colorado, in a pro se, or in propia personam capacity. Appellant was denied justice and equality, and equal privileges and immunities that are affordable to millions of people in his class-category as citizens of the United States, contrary to the Fourteenth Amendment to the U.S. Constitution, and the Federal Civil Rights Statutes named and listed hereinabove herein. If this isn't discrimination raising an animus of invidious action behind the appellees' actions and conduct and motives, then what is it? See the case of Britt Vs. Suckle, (D.C. Texas 1978) 453 Federal Supp. 987. Access to the courts pro se, or in propia persona under the U.S.Civil Rights Statutes , supra, is one of the primary

Civil Rights guaranteed to a citizen like appellant Howard herein by the 14th Amendment to the U.S.Constitution, and the U.S. laws and civil rights statutes mentioned supra herein. Denial of access to the courts, state or federal , by a citizen on his own behalf is a felony under Title 18 U.S.C.A.,Section 241, a Federal Civil Rights Statute.

ARGUMENT AND REASONS FOR GRANTING A REVERSAL OF THE JUDGMENT OF THE COLORADO SUPREME COURT IN FAVOR OF APPELLANT, THE VICTIM OF INJUSTICE.

A party may appear in personam, or pro se, in and court , federal or state, or before any administrative committee of government as shown by the law set forth infra, to wit:

1. A party may appear in the Federal Courts in person, or by agent, U.S.Vs. Hoerner (D.C. Mont), 157 Fed. Supp. 563; and an allegation of a denial of reasonable access to the courts alleges the denial of a Federally protected Civil Right, citing: Harris Vs. Pate (C.C. A. Illinois), 513 Fed. 2nd 652, and also the holding in the

case of Black vs. Brown, (CA Illinois), 513 Federal 2nd 652;and see the case of Buchanan Vs. the U.S., (Colo.), 233 Federal 257, 147 C.C.A. 263.

2. As a further recognition of the right of a person, pursuant to the 14th Amendment guarantees of the United States Constitution, to appear in courts, both Federal and State, in pro se, or in propia persona, we find in Volume 7 of C.J.S., Section 40, Attorney and Client, notes 82 and 83, under the title of"Appearing in Persona" that it is set forth that an order of suspension,or disbarment,generally prevents an attorney's appearance in court for another person , and does not extend so as to prevent an appearance for himself on a cause of action in his own favor, or on a cause that has been assigned to him in good faith, citing: Philbrook Vs. SanFrancisco Superior Court, 43 Pacific 402, 111 Cal. 31; and Leonard Vs. Toledo St. L. & W.R. Co. (D.C. Oregon), 232 Fed. 281. Furthermore, rights of citizenship are not affected by disbarment or discipline, citing Volume 7, C.J.S. , Atty. and Client, Section 40, page 814

note 84, citing also Philbrook Vs. Newman, (C.C.A. Calif.), 85 Federal 139.

3. Pursuant to Federal Law in Volume 28 U.S.C.A.,Section 1654 it is provided that: "In all cases tried in courts of the United States , the parties may plead and manage their cases personally, or by the assistance of counsel."

Howard, the appellant herein, has taken the option of handling his own cases in the Federal Courts. That is his untouchable and guaranteed right under the Federal Statute of 28 U.S.C.A.,Section 1645, and the Supreme Court of Colorado, or any other State court, has no jurisdiction, power, or authority, to interfere with, or obstruct, said statutory Civil Rights.

4. The Appellant herein has the right to, and cannot be barred from appearing in any court of the United States of America, federal or state, because the law provides in every and all jurisdictions that a party may appear either in person, or by an attorney, at his option, and that he may act as his own attorney--that is, he may manage, prosecute, or defend in person on any suit to which he is a party, citing: RIGHT TO APPEAR IN COURT

pro se-- Volume 7 C.J.S., Section 63, page 846, Atty. and Client, Notes 19, 20 and 21.

In each and every, and all, of the cases that the appellant herein has appeared on his own behalf, he has done so properly, lawfully, and in good faith, as a matter of legal right. In Ballentine's Law Dictionary Third Edition, Pro Se is defined as for one's self. Appearing for one's self in an action or criminal proceeding, citing Volume 5 of Am. Jur. 2nd, Appearances , Section 10; 21 Am Jur. 2nd, Crim. Law,Section 310. Now, in the cases that the appellant Howard has appeared in Pro Se, he has always appeared for himself, and not for any client, and and no one else is involved. There are no Howard land trusts in existence, and none have been in existence for many years, or at least for many months, as is falsely claimed, or insinuated , by the appellees herein, and no amount of legal chicanery and fraudulent claims and arguments of pettifogging lawyers employing sharp practice and chicanery can show that the appellant herein has , or had, no right to appear in court for himself on matters that belong exclusively to himself. The Howard's Pine Lake Resort and Campground is owned solely by the appellant Howard Herein, and is solely his property.

It is not a corporation, or a trust, but is a sole ownership, just like the ownership of Blackacre, or Whiteacre by one individual alone. What real estate is personally the property of a man in sole ownership is as much his alone, as his brain, body, heart, or feet and hands. He can do with it what he wants to do with it, and he can sue, or litigate, to protect it, citing: 5 Am. Jur. Anno. 2nd , Appearances, Section 10, and 21 Am. Jur. 2nd , Crim. Law, Section 310

5. A litigant may appear in court anywhere on his own behalf, without counsel,as shown by the following cases:

(1) U.S. Boez Vs. Hudson Motor Car Co., 19 Fed.Supp. 385; and

(2) Chapman Vs. Goodman (C.A.Calif.) 219 Fed. 2nd 802: and

(3) Philbrook Vs. San Francisco Superior Court, 43 Pac. 402, 111 Calif. 31; and

(4) Leonard Vs. Toledo, St. L. and W.R. Co. (D.C. Oregon), 232 Federal 281

CONCLUSION:

FOR THE foregoing reasons the opinion and judgment of theSupreme Court of Colorado

of January 25, 1982 should be reversed and a new judgment substituted therefor consistent with the facts, argument, and reasons for reversal, in order to protect the Fourteenth Amendment Constitutional Rights, and the Civil Rights of the Appellant Howard herein.

Respectfully Submitted,

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APPENDIX A-1

The Supreme Court Decision of the Supreme Court of Colorado, in Original Proceeding No. 81 SA 261, dated Jan. 25, 1982:

IN THE SUPREME COURT OF COLORADO
NO. 81 SA 261

The Board of County Commissioners of the County of Weld,Colorado, Poudre Valley Rural Electric Assn, Inc.A Colo. Corpn. tne National Farmers Union Property and Casualty Company,

Petitioners,

v.

H. GORDON HOWARD,

Respondent.

ORIGINAL PROCEEDING

EN BANC RULE MADE ABSOLUTE

Thomas O. David,
Greeley,Colorado

Attorney for Weld County.

Cross, Christensen, Price & Starr,
Randolph W.Starr,

Loveland,Colorado

Attorney for Poudre Valley Rural Electric Association, Inc.

Warberg and Mast, P. C.
D. Chet Mast,
Fort Collins,Colorado

Attorney for National Farmers Union Property and Casualty Co.

H.Gordon Howard, Pro Se.

CHIEF JUSTICE HODGES delivered the opinion of the court.

In this original proceeding, the Board of County Commissioners of Weld County and Poudre Valley Rural Electric Assn. petitioned this court to enjoin the respondent, H. Gordon Howard, a disbarred attorney, from appearing pro se, or in propia persona before any state court or administrative agency. The petition stated that respondent has filed a multiplicity of cases of a duplicative nature causing the judicial process to be needlessly impeded. We issued a rule to show cause why the injunction should not be granted.

The response by resppndent Howard fails to show cause why he should not be enjoined from further pursuing any case in any state court or administrative agency without being represented by legal counsel duly licensed to practice law in the State of Colorado. The response by Howard also demonstrates a lack of understanding of the issue involved and emotionally describes the petition as being:

"false, fraudulent, vexatious, frivilous (sic) and a fake and a sham upon its face, as well as being criminalistic in scope, and totally meritless under the facts and the law, as well as being scurrlious, (sic) and scandalous, and filed solely to deprive Howard of his civil, Constitutional, and statutory federal rights, such as are guaranteed by the Fourteenth Amendment to the U.S.Constitution as a right of citizenship to the said Howard."

There exists ample justification for an injunction, and therefore it is granted, thus making the rule absolute.

Respondent Howard was admitted to the bar of this court in September 1938. On August 21, 1961 he was disbarred by this court, People Vs. Howard, 147 Colo. 501, 364 Pac. 2nd 380 (1961).

Subsequent to his disbarment, respondent Howard filed a total of ninteen cases between 1965 and March 1977 acting as trustee of the "Howard Land Trust" and appearing in propia persona in his capacity as trustee. On October 23rd 1977, this court adopted the report , findings and recommendations of the Unauthorized practice of law committee and enjoined the respondent Howard "from appearing before any court or administrative committee of the State of Colorado, in propia persona as trustee for the Howard Land Trust or any similar such trust....."

Since the 1977 order of this court, respondent Howard, appearing pro se has initiated no fewer than 14 actions, in state and federal courts, and before state administrative agencies. Included are two actions ij the United States District Court for alleged damages resulting from a zoning resolution

adopted by Weld County; three actions (2 in the United Sta tes District Court, 1 in a state court) Seeking damages for an alleged illegal arrest of respondent Howard in May 1978 on charges of felony menacing; seven actions (3 in the U.S.District Court for Colorado, 2 in state court and 2 before state administrative agencies) challenging a Weld County zoning resolution and the Rural Electric Associations' refusal to provide certain service; one action in the United States District Court for Colorado seeking damages and an injunction stemming from a determination by the Weld County Health Board that respondent's septic system was not properly functioning; and one action in state court seeking to collect money alledgedly due to respondent Howard on a loan contract. In those cases in which respondant Howard alleges damages, he seeks them in sums of millions of dollars. Of the fourteen actions mentioned, six are now pending, six have been dismissed prior to trial, and two were determined on the merits in a manner adverse to respOndent Howard's position.

The Constitution of Colorado guarantees to every person the right o access to courts of justice, Colo. Constitution,Article II,

Section 6, This right , however, is not without limits. It is firmly established that where necessary to stop abuse of the judicial process this court has the power to enjoin a person from proceeding pro se in any litigation in state courts and administrative agencies. People vs. Dunlap, ____Colo._____, 623 Pac. 2nd 408 (1981); People Vs. Spencer, 185 Colo. 377, 524 Pac. 2d 1084; Shotkin Vs. Kaplan, 116 Colo. 295, 180 Pac. 2d 1021 (1947) In Dunlap it was emphasized that:

"Every person has an undisputed right of access to the Colorado courts--but the right may not be abused. The right of self-representatiionin civil suits must in a proper case yield to the principle that right and justice should be administered without sale, denial, or delay." Id. at 410.

The instant case is similar to the situations we addressed in Spencer and Shotkin wherein we restricted the pro se litigant's access to state tribunals.

In Spencer, supra, the respondent, who was not trained in the law, filed numerous pro se lawsuits concerning a variety of disputes with his neighbors over irrigation water. All these pro se actions evidenced strong emotion but no legal merit and all were unsuccessful.

In Shotkin, Supra, the respondent had a multitude of cases pending in the state and federal courts. Some of the cases grew out of previous ones which had been determined adversely to the respondent. It was held that such meritless cases interfered with the functioning of all the courts within the jurisdiction of Colorado and materially impeded the judicial process.

The instant case falls within the same general pattern as those cited above. Respondent Howard has filed a number of lawsuits, many of which are duplicitous of others.

The complaints are filed with emotion, and many have been dismissed by trial courts as being without merit. Most of respondent's complaints assert enormous actual damages, and seek even greater punitive damages.

The respondent's constant and duplicitous pro se complaints filed in our courts

result in an unwarranted burden on the judicial process and are prejudicial to the public interest.

Respndent, H.Gordon Howard is hereby enjoined from filing any pro se complaint in an state court or administrative agency and from further appearing pro se in any state court action or administrative agency proceeding now pending. As to the cases now pending, respondent Howard is ordered to arrange for the appearance of legal counsel duly licensed to practice law in the state of Colorado. In the event counsel does not so enter an appearance within 45 days, then and in that event the state court or administrative agency may dismiss the pending action. In the event any court hearing or trial is scheduled, it may be continued to a later date to permit respondent Howard to retain counsel in accordance with the directions herein set forth.

Rule made absolute.

NOTICE OF APPEAL:.

IN THE SUPREME COURT OF THE STATE OF COLORADO

NO. 81 SA 261

The Board of County Commissioners of the County of Weld and State of Colo.; and the Poudre Valley R.E.A., Inc., A Colorado Corporation; and the National Farmer's Union and Casualty Co.; and Thomas O.David, and Randolph W.Starr; and D. Chet Mast,

PETITIONERS, AND CROSS-DEFENDANTS,

Vs.

H. GORDON HOWARD,

RESPONDENT, AND CROSS-COMPLAINANT, PRO SE,

NOTICE OF APPEAL OF THE WITHIN CASE TO THE UNITED STATES SUPREME COURT AT WASHINGTON, D.C., PURSUANT TO RULE 10 OF THE RULES OF THE SUPREME COURT OF THE UNITED STATES

To: David Brezina, Clerk of the Supreme Court of the State of Colorado, Greetings:

You will please take notice that the undersigned, pursuant to Rule 10 of the Rules of the Supreme Court of the United

States is taking an appeal of the above-numbered original proceeding to the Supreme Court of the United States within the 90 days allowed by Rule 12 of the Rules of the United States Supreme Court for filing an appeal from a State court judgment. The whole judgment ofJan. 25th 1982 is being appealed,and the appeal is being taken under the provisions of the 14th Amendment to the U.S.Constitution, and under Title 28 U.S.C.A., Section 1343; and under Title 42 U.S.C.A., Section 1983; and under Title 42 U.S.C.A.,Sec. 1985; and also under Federal Laws, Statutes, and Regulations; and also under the claim of Petitioner herein and Respondent, H.Gordon Howard, that the Supreme Court of Colorado deprived the appellant herein of his Constitutional Rights pursuant to Article II, Section 6 of the Colorado State Constitution by exceeding the court's authority, power and jurisdiction in overruling the said State of Colorado Constitutional provision of Article II, Section 6, and by holding said Constitutional provision for naught.

Respectfully Submitted,
H.Gordon Howard

Appellant, Pro Se,
2470 South Ivanhoe Place,
Holly Hills,
Denver,Colorado, 80222
Telephone: (303) 756-0130

Dated: January 30th 1982.

Motion to Dismiss or Affirm

Supreme Court, U.S.
FILED
APR 19 1982
ALEXANDER L. STEVAS
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 81-1752

H. GORDON HOWARD,
Appellant,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, COLORADO, POUDRE VALLEY RURAL ELECTRIC ASSOCIATION, INC., a Colorado Corporation and NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF COLORADO

MOTION TO DISMISS

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 81-1752

H. GORDON HOWARD,
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v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, COLORADO, POUDRE VALLEY RURAL ELECTRIC ASSOCIATION, INC., a Colorado Corporation and NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF COLORADO

MOTION TO DISMISS

INTRODUCTION

Appellant, H. Gordon Howard is a disbarred attorney, having been disbarred by the Supreme Court of the State of Colorado on August 21, 1961. *People v. Howard*, 147 Colo. 501, 364 P.2d 380 (1961).

By decision dated January 25, 1982, Chief Justice Hodges analyzed the saga of Mr. Howard and his incredible string of *pro se* lawsuits brought both as trustee and for himself over the past 20 years. *The Board of County Commissioners of the County of Weld, Colorado, Poudre Valley Rural Electric Association, Inc., a Colorado Corporation, and*

National Farmers Union Property and Casualty Company v. Howard, ____ Colo. ____, ____ P.2d ____ (1982), attached to Appellant's Jurisdictional Statement and Appendix A-1.

For the reasons hereinafter set forth, Appellees submit that the decision of the Colorado Supreme Court is based upon clear and longstanding Colorado law and that any issues raised by Mr. Howard are so unsubstantial as to preclude any examination before this Court.

Therefore this Appeal should be dismissed as this Court does not have jurisdiction of this matter by direct appeal, or in the event that this Court wishes to treat Mr. Howard's appeal as a Petition for a Writ of Certiorari that the Petition should be denied. This Motion is made pursuant to Rule 16(1) of the Rules of the Supreme Court.

QUESTION PRESENTED

The initial question before the Court herein is whether, under §28 U.S.C. 1257(1), or §28 U.S.C. 1257(2), this Court has jurisdiction to hear a direct appeal of the decision of the Colorado Supreme Court entered in this matter? If this matter is treated as a Petition for Writ of Certiorari, the question is whether under §28 U.S.C. 1257(3) there is a real or substantial federal question presented.

STATEMENT OF THE CASE

For purpose of this Motion, the background of this case, and of Mr. Howard's conduct, is adequately presented in the decision of the Colorado Supreme Court dated January 25, 1982. *The Board of County Commissioners of the County of Weld, Colorado, Poudre Valley Rural Electric Association, Inc., a Colorado Corporation, and National Farmers Union Property and Casualty Company v. H. Gordon Howard, supra.*

On January 30, 1982, Mr. Howard moved to stay enforcement of the decision of the Supreme Court by motion

filed with the Colorado Supreme Court; and by "Order of Court" dated February 4, 1982, the motion was denied. On January 30, 1982, Mr. Howard filed a "Notice of Appeal of the Within Case to the United States Supreme Court at Washington D.C. Pursuant to Rule 10 of the Rules of the Supreme Court of the U.S."

ARGUMENT

Appellant, in his "Jurisdictional Statement" fails to show why this Court has jurisdiction under §28 U.S.C. 1257(1) or (2). Appellant has failed to indicate, argue or otherwise delineate any statute either state or federal which was held by the Colorado Supreme Court to be applicable in this matter. In fact, the decision of the Colorado Supreme Court does not even mention one statute. The decision of the Colorado Supreme Court rests solely upon the Court's long-standing line of cases indicating it has the right to control abuse of the judicial process. See *People v. Dunlap*, ____ Colo. ____, 623 P.2d 408 (1981); *People v. Spencer*, 185 Colo. 377, 524 P.2d 1084 (1974); *Shotkin v. Caplan*, 116 Colo. 295, 180 P.2d 1021 (1947).

In typical fashion, Mr. Howard displays a great deal of emotion, and very little logic or brevity. The Jurisdictional Statement indicates that Mr. Howard believes that he has been denied access to Colorado Courts. This is erroneous. Mr. Howard was "enjoined from filing any *pro se* complaint in any (Colorado) state court or administrative agency and from further appearing *pro se* in any (Colorado) state court action or administrative agency proceeding now pending." Mr. Howard is able, under the Order of the Court, to retain counsel in accordance with the Order of the Colorado Supreme Court in order to continue any presently filed actions, or to commence any new actions. Of course the Order of the Colorado Supreme Court did not bar Mr. Howard from defending himself as a *defendant* either in a criminal or civil proceeding. Therefore Mr. Howard has not been denied access to Colorado Courts and any statement to the contrary is erroneous.

At no time has Mr. Howard directed this Court to any question concerning the validity of any federal or state statute, and therefore appeal from the decision of the Colorado Supreme Court cannot be taken. *Addington v. Texas*, 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed.2d 323 (1979); *Longest v. Langford*, 274 U.S. 499, 71 L.Ed. 1170, 47 S.Ct. 688 (1927). Mr. Howard has alluded to several federal statutes concerning civil rights, but Mr. Howard fails to demonstrate their applicability in this matter.

Even if Mr. Howard's Jurisdictional Statement is taken as a Petition for a Writ of Certiorari from the decision of the Colorado Supreme Court, there is no real or substantial federal question presented in the Jurisdictional Statement which would require a decision of this Court. See *People v. Dunlap, supra; People v. Spencer, supra;* and *Shotkin v. Caplan, supra.* Generally the Jurisdictional Statement of Mr. Howard is devoid of merit, frivolous and without substance, and should be dismissed. *Patterson v. Colorado*, 205 U.S. 454, 27 S.Ct. 556, 51 L.Ed. 879 (1907); *Agins v. City of Tiburon*, 100 S.Ct. 2138, 447 U.S. 255, 65 L.Ed.2d 106 (1980).

CONCLUSION

For the foregoing reasons, the appeal by H. Gordon Howard in the above-captioned action should be dismissed, or in the event that the appeal is treated as a Petition for Writ of Certiorari, the Writ should be denied.

RESPECTFULLY
SUBMITTED

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